

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY)	MDL No. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION)	CIVIL ACTION: 01-CV-12257-PBS
)	
THIS DOCUMENT RELATES TO:)	
)	Judge Patti B. Saris
<i>State of Nevada v. American Home Products</i>)	
<i>Corporation, et al., 02-CV-12086-PBS</i>)	
)	
)	
)	

**B. BRAUN OF AMERICA INC.'S NOTICE OF WITHDRAWAL AS MOOT ITS
MOTION TO RE-DISMISS THE STATE OF NEVADA'S AMENDED COMPLAINT
FOR IMPROPER SERVICE AND LACK OF PERSONAL JURISDICTION**

B. Braun of America Inc. ("BBA") hereby respectfully withdraws as moot its Motion to Re-Dismiss the State of Nevada's Amended Complaint for Improper Service and Lack of Personal Jurisdiction, which is currently pending before the Court (filed on July 19, 2004).

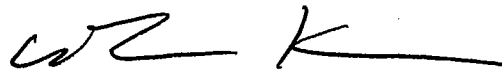
On June 10, 2004, BBA was dismissed from this action by the Court. *See* Memorandum and Order (June 10, 2004), at 34. Subsequent to that dismissal, on June 28, 2004, the State of Nevada attempted, without leave of Court, to re-serve its Amended Complaint on BBA by delivering a copy of that pleading, without a summons, to the registered agent for B. Braun Medical Inc., which is a separate legal entity from BBA and not authorized to receive service on behalf of BBA. In response to this improper attempted service, BBA filed its Motion to Re-Dismiss on July 19, 2004.

As reflected in the attached letter, counsel for Nevada has reconsidered its position and abandoned its improper attempt to bring BBA back into the case without the Court's permission. Nevada's counsel has represented that their June 28, 2004 attempt to re-serve BBA with the State's Amended Complaint should be deemed "withdrawn." Nevada's counsel has further represented that they will not make any further attempts to serve BBA in this action "without prior Court approval."

In reliance on these representations by Nevada's counsel, BBA hereby withdraws as moot its Motion to Re-Dismiss Nevada's Amended Complaint. BBA remains a dismissed party pursuant to the Court's June 10, 2004 Order.

Dated: August 2, 2004

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. F. Attridge', followed by a horizontal line.

Daniel F. Attridge, P.C.
Colin R. Kass
KIRKLAND & ELLIS LLP
655 Fifteenth Street, N.W., Suite 1200
Washington, D.C. 20005
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Counsel for B. Braun of America Inc.

ATTACHMENT A

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July 29, 2004

Via Facsimile

Mr. Daniel F. Attridge, P.C.
Kirkland & Ellis
655 15th Street N.W., Suite 1200
Washington D.C. 20005

Re: In re Pharmaceutical Industry AWP Litigation
State of Nevada Case

Dear Mr. Attridge:

We have once again reviewed B. Braun of America Inc.'s Motion to Re-Dismiss the State of Nevada's Amended Complaint for Improper Service and Lack of Personal Jurisdiction, and have considered the points that you made during our telephone conversation today. Please consider the State of Nevada's attempt to re-serve the Amended Complaint on B. Braun of America as withdrawn. Furthermore, if Nevada decides to re-serve B. Braun of America, it will not do so without prior Court approval.

In light of these stipulations, please advise promptly whether B. Braun of America will now withdraw its motion as moot.

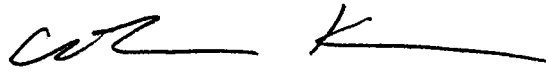
Sincerely,



Sean R. Matt

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing B. Braun of America Inc.'s Notice of Withdrawal as Moot Its Motion to Re-Dismiss the State of Nevada's Amended Complaint for Improper Service and Lack of Personal Jurisdiction has been served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties on this 2nd day of August, 2004.

A handwritten signature in black ink, appearing to read 'D. Attridge', is written over a horizontal line.

Daniel F. Attridge, P.C.

Colin R. Kass

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